

## REMARKS

The September 6, 2006 Office Action commented on Applicants' priority status and rejected all claims under 35 U.S.C. § 112 and § 102. In light of the amendments above and the arguments below, Applicants respectfully request reconsideration.

### Priority Status

The Office Action notes that "Applicants are advised that none of parent applications to which instant claims priority to contains proper written support for the method employing a double-mutant polymerase which has reduced discrimination between canonical and non-canonical nucleoside triphosphates." Applicants disagree with the Examiner's characterization and point out that provisional application U.S. 60/420,009, to which the above-identified case claims priority, does in fact claim the double-mutant polymerase. Applicants draw the Examiner's attention to, for instance, claims 15 and 16. Therefore, Applicants believe they are entitled to an earlier priority date corresponding with the filing date of that provisional application, October 21, 2002.

### §112 Rejections

Claims 10 and 11 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Although neither acquiescing nor agreeing with the Examiner's characterization of claim 10, Applicants have cancelled claim 10.

Claim 11 has been amended to clarify the meaning of the Markush group. Applicants note that the Markush group is a group consisting of a ribozyme and a nucleic acid molecule.

Claims 1-12, 25, 28, and 38 are rejected under 35 U.S.C. § 112 on the grounds of lack of enablement. Applicants note that the Examiner has acknowledged that "while being enabling for a method of synthesizing a nucleic acid as claimed, wherein the claims require a T7 RNA polymerase comprising the double mutation, Y639F and H784A...". Applicants have amended claim 1 to specify this RNA polymerase and mutation.

Applicants do not agree with the Examiner's characterization that the specification lacks enablement for other members of the T7-like polymerase. Applicants specifically point to SP6 polymerase and note that Applicants have included disclosure of specific SP6 RNA polymerase mutations. Applicants note new claim 41 which is drawn to T7 polymerase and SP6 polymerase.

#### § 102 Rejections

The Office Action has rejected claims 1, 3, and 5-12 as being anticipated by Padilla et al. (Nucleic Acids Research, December 2002). As noted above, Applicants filed a Provisional application in October, 2002 disclosing the above-identified invention. Because Padilla et al. was published after October, 2002, Applicants believe it should be removed as a reference.

Fees

A petition for a three month extension of time accompanies this response so that the response is timely filed. No other extension of time is believed due, but should any additional extension be due, in this or any subsequent response, please consider this to be a petition for the appropriate extension and a request to charge the extension fee to Deposit Account No. 17-0055. No additional fees are believed due; however, if any fees are due, in this or any subsequent response, please charge Deposit Account 17-0055.

Respectfully submitted,

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